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7 LEVELFIELDS, INC.,
8 Plaintiff,
9 v.
10 REDDIT, INC.,
11 Defendant.

Case No. [24-cv-02760-WHO](#)

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**ORDER GRANTING MOTION TO
DISMISS WITH PREJUDICE**

21 Re: Dkt. No. 37

22 In its First Amended Complaint (“FAC”), plaintiff LevelFields, Inc. asserts a sole breach
23 of contract claim against Reddit, Inc. Dkt. No. 34. It alleges that Reddit breached the terms of the
24 parties’ contract, the Reddit Ad Platform Agreement (“Agreement”). The breach occurred,
25 according to LevelFields, because Reddit charged it for “clicks” on its advertisements (“ads”) on
26 Reddit’s platform advertisements that did not generate traffic on LevelFields’ servers. This theory
27 of breach, however, is foreclosed by the unambiguous terms of the Agreement itself. LevelFields’
28 amended breach claim is DISMISSED. As LevelFields was unable to plead around the express
terms of the contract, after being given leave to amend on the last round of motion practice, the
FAC is dismissed without leave to amend.¹

22 In the FAC, LevelFields asserts two theories of express breach of contract. First, “Reddit
23 breached its contracts with Plaintiff and the Class by charging for clicks on pay-per-clicks ads that
24 either did not occur, were not initiated by a user or did not result in a user being taken to the
25 corresponding landing page or comment linked in that ad.” FAC ¶ 41. Second, “[a]dditionally
26 and alternatively, Reddit breached its contracts with Plaintiff and the Class by failing to use
27 reasonable means to ensure that the clicks on ads paid for by Plaintiff and Class members were

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1 The background and facts alleged by plaintiff are discussed in the August 27, 2024 Order
 (“August Order,” Dkt. No. 32) and are incorporated herein.

1 delivered according to the advertiser's criteria." *Id.* ¶ 42.

2 Both theories fail under the plain, unambiguous language of the Agreement. As an initial
3 matter, in the August Order, I directed LevelFields to identify the particular language in the
4 Agreement it contends that Reddit breached and provide support for its interpretation of the term
5 "deliver ads" to mean "ads that are clicked by users." August Order at 5. LevelFields' FAC fails
6 to do either.

7 With respect to the contract provisions LevelFields asserts were breached, it simply cites to
8 Section 3 of the Agreement. That section ("Payments and Orders") provides in pertinent part:

9 When you use the Platform to submit an Ad, you will tell us the
10 information required to initiate and target your campaign, which may
11 include the type of advertising you want to buy, the target audience,
12 the maximum amount you want to spend, the start and any end date
13 of your campaign, your objective, and your maximum bid, your daily
14 budget, and total budget. Once your Ad is approved, Reddit will serve
15 the Ad when inventory on the Platform becomes available that
16 matches the criteria associated with your Ad, including your bid.
17 When serving your Ad, Reddit will use reasonable means to ensure
18 that the Ad is delivered according to your criteria, but Reddit does not
19 guarantee in every instance that your Ad will reach users with your
20 selected criteria, reach the users that you intended when you selected
21 the criteria, and/or deliver any specific result. You will pay for your
22 use of the Platform after your Ad is delivered based on Reddit's
23 calculation of amounts due and Reddit's measurement of the
24 applicable billing metrics, such as impressions, views or clicks.
25 Amounts due are exclusive of taxes.

26 You will not and will not authorize any third party to generate invalid
27 or fraudulent impressions, clicks, or other desired actions with respect
28 to the Platform or to use any unauthorized means to extract
advertising or performance-related data from the Platform. You
acknowledge that third parties may generate impressions, clicks, or
other desired actions with respect to your advertisements for
prohibited or improper purposes.

22 FAC ¶ 16.

23 LevelFields argues that under these Terms, and because it asked Reddit to bill it based on
24 the "clicks" metric (as opposed to the impressions or views metrics), it should have been charged
25 "only when a user actually clicks on the ad and is taken to the advertiser's website or landing
26 page." *Id.* ¶ 19; *see also* ¶ 23 ("Plaintiff utilized the Reddit Ad Platform to advertise with click-
through ads, meaning Plaintiff would only pay if and when a user clicked its ads."). Because
27 LevelFields asserts that it was being "charged for 'clicks' that did not correspond to traffic on
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1 Plaintiff's servers" – without providing any metrics of its own in support, like the frequency or
2 percentage of Reddit's charged clicks that did not correspond to traffic on its servers – LevelFields
3 contends the Agreement was breached. *Id.* ¶ 25.

4 In the FAC, LevelFields outlines this theory of breach: "Reddit breached its contracts with
5 Plaintiff and the Class by charging for clicks on pay-per-clicks ads that either [1] did not occur, [2]
6 were not initiated by a user or [3] did not result in a user being taken to the corresponding landing
7 page or comment linked in that ad." FAC ¶ 41 (as edited). However, in its opposition,
8 LevelFields *narrow*s this theory to the last clause; "Plaintiff is not alleging that Reddit's Ad Server
9 miscalculated the clicks," instead it is alleging that "Reddit's Ad Server measured the wrong type
10 of 'click,'" meaning clicks that did not result in traffic measurable on LevelFields' servers. Oppo.
11 at 4-5. It no longer maintains that Reddit is charging for clicks that did not occur or were not
12 initiated by a user. *Id.*

13 This narrowed first theory of breach depends upon the Agreement defining chargeable
14 "clicks" as only those that successfully ***delivered*** users to LevelFields' site and resulted in
15 measurable traffic to its servers. *See id.* at 5 ("Reddit all but ignore the obligations imposed on it
16 [in] this provision: (1) that Reddit will use ***reasonable means to ensure*** that the Ad is ***delivered***
17 according to [plaintiff's] criteria; and (2) that Plaintiff will pay when an "Ad is ***delivered***."
18 (emphasis in original). LevelFields, however, points to no support in the Agreement or the other
19 disclosures made by Reddit to advertisers for its definition of deliver. Its definition is implausible
20 in the context of the entire Agreement.

21 "Deliver" as used in the Agreement refers to the "serving" of the ad by Reddit, according
22 to the criteria selected by the advertiser, and not as the measure of when a "click" will be charged
23 to an advertiser. Section 3 of the Platform Terms, Reddit states:

24 Reddit will use reasonable means to ensure that your Ad is ***delivered***
25 according to your criteria, but Reddit does not guarantee in every
26 instance that your Ad will reach users with your selected criteria, reach
27 the users that you intend when you selected the criteria, and/or ***deliver***
28 any specific result. You will pay for your use of the Platform after
your Ad is ***delivered*** based on Reddit's calculation of amounts due
and Reddit's measurement of the applicable billing metrics, such as
impressions, views or clicks.

1 (Emphasis added). Delivered, as used in the Agreement, refers to Reddit *serving* an advertiser's
2 ads on Reddit's site to the target audiences or locations according to the criteria advertisers select.

3 The delivery of those ads according to selected criteria does not support LevelFields'
4 argument; it is a separate promise that Reddit is making to advertisers. There is no support in the
5 contract for LevelFields' position that "clicks" can only result in charges to advertisers when the
6 users actually reach an advertiser's site. That is obvious because Section 3 of the Agreement
7 discusses billing metrics *other* than "clicks," including billing based on impressions and views.
8 FAC ¶¶ 17-19 (discussing billing based on impressions versus clicks). Delivery of the ad is step
9 one. There is no allegation that Reddit did not in fact deliver LevelFields' ads according to the
10 criteria LevelFields selected. After delivery comes step two; billing the client according to the
11 client's selected metric – clicks or impressions, or views.

12 Separate from the term deliver, LevelFields points to no support within the Agreement for
13 its proposed definition of "clicks" to mean *only* clicks that resulted in actual traffic to LevelFields'
14 sites measurable by LevelFields' servers. Clicks is unambiguous term that simply means, as
15 LevelFields otherwise admits, when a legitimate user or a bot or a fraudster "clicks" on an ad.
16 That is it. *Compare* Agreement § 3 ("You will not and will not authorize any third party to
17 generate invalid or fraudulent impressions, **clicks**, or other desired actions with respect to the
18 Platform or to use any unauthorized means to extract advertising or performance-related data from
19 the Platform. You acknowledge that third parties may generate impressions, **clicks**, or other
20 desired actions with respect to your advertisements for prohibited or improper purposes. Your sole
21 remedy for any prohibited or improper third-party conduct with respect to the Platform is to make
22 a claim for advertising credit within 45 days of the applicable invoice date (the "Claim Period")."
23 (emphasis added)); *with* FAC ¶ 10 ("Click-through fraud perpetrators exploit the nature of pay-
24 per-**click** advertising to increase the pay-per-**click** fees paid by competitors and boost the
25 placement of their own advertisements. Many of these fraudulent clickers use software programs
26 that automatically **click** on ads hundreds or thousands of times." (emphasis added)).

27 Without support in the Agreement itself, LevelFields turns to extraneous evidence to
28 support its broadened definition of chargeable clicks. It points to an email between a Reddit

1 customer service representative and LevelFields' CEO. FAC ¶¶ 24-25.² That email, even if
2 relevant to the disputed meaning of a contract entered into years before, does not support
3 LevelFields.

4 In response to the CEO's request that Reddit "confirm the definition of a click" the
5 representative responds:

6 Certainly! Below follows a definition of a click on Reddit;

7 We track total clicks on your headline area and on your image (if
8 you include one). We do not break out the clicks on individual links
within your text based post.

9 Regarding the Reddit Ads Dashboard, we define clicks as
10 follows:

11 For link post ads with outbound links, ***any click that takes a user to
your landing page is tracked as a click.***

12 For text post ads, any click ***that takes a user to your post's comments
page is tracked as a click.*** However, any clicks on
13 Comments are not tracked as clicks.

14 FAC ¶ 24. The response first confirms that clicks are tracked based on clicking on the ad itself,
15 and not broken out for the "individual links" within the text of the ad that might send users to
16 different parts of an advertiser's site. The response then goes on to highlight the differences
17 between the link post ads, where the *links* are directed to the advertiser's selected "landing page,"
18 and the text post ads where clicks take users to the advertisers' comments page. Nothing in the
19 email supports a definition of clicks that are chargeable only if they result in measurable activity
20 on an advertiser's site or creates ambiguity in the contract.

21 Although I do not need to, I note that *other* provisions in the Agreement support Reddit,
22 including the statement that "Reddit's Ad Server shall be the controlling measurement by which
23 your campaign is billed." Agreement, § 3. LevelFields does not suggest a plausible theory of how
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25 ² The parties dispute whether extrinsic evidence – especially extrinsic evidence that postdates the
26 parties entering into the Agreement – is relevant to defining deliver or clicks. I consider the email
and LevelFields' arguments in support, although I do not find the Agreement's terms ambiguous.
27 See *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1015 (9th Cir. 2012) (noting under
California law, courts may consider extrinsic evidence to help determine "the context in which the
words are written" but also that where a "court decides that the contract is not reasonably
susceptible to more than one interpretation, the court can reject the assertion of ambiguity" based
28 on extrinsic evidence).

1 Reddit's Ad Server would be able to know if 1000s or 10000s of clicks each resulted in
2 "measurable" traffic on each advertiser's site in order to bill for those clicks. Relatedly, the
3 Agreement requires advertisers to acknowledge that fraudulent activity might occur and the sole
4 remedy for "any prohibited or improper third-party conduct with respect to the Platform is to make
5 a claim for advertising credit within 45 days of the applicable invoice date (the "Claim Period")."
6 *Id.* The Agreement to which LevelFields agreed expressly discloses that fraudulent clicks or
7 impressions might occur and that the remedy for that fraud or mistake is not requiring Reddit to
8 verify that traffic reached an advertisers site before charging for clicks, but the claims process.
9 *Singh v. Google Inc.*, No. 16-CV-03734-BLF, 2017 WL 2404986, at *3 (N.D. Cal. June 2, 2017)
10 ("Indeed, Singh could not make such a claim because Google acknowledges the existence of click
11 fraud and the possibility that an advertiser would be charged for fraudulent clicks.").

12 Plaintiff's second theory of breach – that Reddit was not using "reasonable means" to
13 prevent clicks from fraud or otherwise prevent clicks that do not result in traffic to an advertiser's
14 site from being billed – also fails. The "reasonable means" clause quoted above discusses using
15 reasonable means in "serving" and "delivering" ads on the Reddit site according to the criteria an
16 advertiser selects. *See* Agreement § 3. ("When **serving** your Ad, Reddit will use reasonable means
17 to ensure that the Ad is **delivered according to your criteria**, but Reddit does not guarantee in
18 every instance that your Ad will **reach** users with your selected criteria, **reach** the users that you
19 intended when you selected the criteria, and/or **deliver** any specific result. You will pay for your
20 use of the Platform after your Ad is delivered based on Reddit's calculation of amounts due and
21 Reddit's measurement of the applicable billing metrics, such as impressions, views or clicks."
22 (emphasis added)). LevelFields admits that it is not alleging that Reddit did not use reasonable
23 means to *serve* LevelFields' ads according to the criteria LevelFields' selected. Oppo. at 8. There
24 is no basis to read into the reasonable means provision something not expressly covered (such as
25 a requirement that Reddit employ some unidentified "reasonable means" to ensure each click
26 results in traffic to an advertiser's website).

27 The breach of contract claim is DISMISSED. As LevelFields already amended its initial
28 complaint in order to clarify the basis of its breach claim, and the FAC did so but the amended

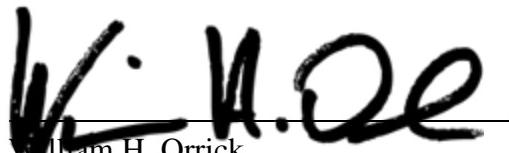
1 breach of contract claim still fails given the unambiguous language of the Agreement, the
2 dismissal is WITH PREJUDICE.³

3 **CONCLUSION**

4 The sole claim for breach of contract is DISMISSED WITH PREJUDICE.

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6 **IT IS SO ORDERED.**

7 Dated: December 17, 2024

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William H. Orrick
United States District Judge

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12 United States District Court
13 Northern District of California
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³ I need not reach Reddit's other arguments for why the breach claim must be dismissed as a matter of law, including the exclusive claims process remedy and lack of standing.